

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

CITIFINANCIAL, INC.,)
)
Plaintiff,)
)
v.) Civil Action No. 3:07 CV55-WHA
)
BROOKA F. STOKES,)
)
Defendant.)

**MOTION FOR LEAVE TO FILE BRIEF IN SUPPORT OF DEFENDANT'S MOTION
TO DISMISS FOR LACK OF JURISDICTION**

COMES NOW the Defendant in the above styled cause, by and through her undersigned counsel, and moves this Court for leave to file a brief in support of its motion to dismiss for lack of jurisdiction.

In support thereof, the Defendant states as follows:

1. In response to the Court's Order that the Plaintiff should show cause why the Defendant's Motion to Dismiss should not be granted. Plaintiff filed an 11 page brief supporting its Petition.

2. The Defendant asserts that this case is distinguishable from the cases cited by the Plaintiff in that the Defendant is seeking to compel the arbitration of a non-diverse Defendant in the underlying State Court action who is not a plaintiff to this petition. *Patriot Mfg., Inc. v. Dixon*, 2005 WL 2233071, at *4 (S.D. Ala. Sept. 1, 2005); and *MS Dealer Serv. Corp v. Franklin*, 177 F. 3d 942, 945 (11th Cir. 1999).

The Defendant would ask this Court for additional time to file a formal brief in support of her position and to address the new issues raised by the Plaintiff under Rule 19 on the issue of whether or not Glenda Duncan is an indispensable party to this action which would also defeat jurisdiction.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Motion upon the following by depositing a copy of the same in the United States Mail, postage prepaid and properly addressed on this the 20th day of February, 2007.

Alan D. Leeth, Esq.
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JEFFREY G. TICKAL